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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,604	06/14/2001	Sean W. March	NRT.0100US (14531RRUS01U)	6409
21906 7590 10/29/2007 TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER PHAN, MAN U	
			ART UNIT 2619	PAPER NUMBER
			MAIL DATE 10/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/881,604

Applicant(s)

MARCH ET AL.

Examiner

Man Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13,19 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-13,19 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment and Argument

1. This communication is in response to applicant's 08/15/2007 Amendment in the application of March et al. for the "Protecting a network from unauthorized access" filed 06/14/2001. The amendment and response has been entered and made of record. Claims 1-3, 5-13, 19, 25 are pending in the application.
2. Applicant's remarks and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C. 103 as discussed below. Applicant's argument with respect to the pending claims have been fully considered, but they are not persuasive for at least the following reasons.
3. In response to applicant's argument that the combination of cited references fails to present a prima facie case of obviousness. In response, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). It is not necessary that a "prima facie" case of unpatentability exist as to the claim in order for "a substantial new question of patentability" to be present as to the claim. Thus, "a substantial new question of patentability" as to a patent claim could be present even if the examiner would not necessarily reject the claim as either fully anticipated by, or obvious in view of, the prior art patents or printed publications. As to the importance of the difference between "a

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substantial new question of patentability” and a “prima facie” case of unpatentability see generally *In re Etter*, 756 F.2d 852, 857 n.5, 225 USPQ 1, 4 n.5 (Fed. Cir. 1985). Also, See MPEP § 2141.01(a) for a discussion of analogous and nonanalogous art in the context of establishing a prima facie case of obviousness under 35 U.S.C. 103. See MPEP § 2131.05 for a discussion of analogous and nonanalogous art in the context of 35 U.S.C. 102. 904.02.

In response to Applicant’s argument that there is no suggestion to combine the references, i.e., Savaoldi et al. (US#5,727,146), Chiu et al. (US#6,744,767) and Schuster et al. (US#6,771,674) as proposed in the office action. The Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The Examiner emphasizes for the record that the claims employ a broader in scope than the Applicant’s disclosure in all aspects. In addition, the Applicant has not argued any narrower interpretation of the claim limitations, nor amended the claims significantly enough to construe a

narrower meaning to the limitations. Since the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004). Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims in parallel to the

Applicant in the response and reiterates the need for the Applicant to distinctly define the claimed invention.

Since no substantial amendments have been made and the Applicant's arguments are not persuasive, the claims are drawn to the same invention and the text of the prior art rejection can be found in the previous Office Action. Therefore, the Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Rejections - 35 USC ' 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Savoldi et al. (US#5,727,146), in view of Chiu et al. (US#6,744,767) and further in view of Schuster et al. (US#6,771,674).

With respect to claim 1, the references disclose a novel system and method for protecting access to a network, according to the essential features of the claim. Savoldi et al. teach a method of dynamically protecting network access using packet source address, comprising of

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receiving, in a system, a data unit (51 as packet) containing a source address indicating a source of a data unit (packet), matching the source address with information stored in the system (50), and enabling entry of the data unit (packet) to the first network if the source address matches the information stored in the system (52) and denying entry (with error) of the data unit to the first network if the source address does not match the information stored in the system (52) (See Fig. 7, Col. 1, line 61 - Col. 2, line 8), and indicating occurrence of an attack of the first network in response to determining that the identifier of allow/request configuration field that does not match the stored allow/request configuration field (See Fig. 4, Col. 3, lines 58-63).

However, Savoldi et al. does not disclose expressly the particular application involving limitations of "a storage module to store a threshold value for a communications session, the threshold value representing an acceptable rate of incoming data units from the external network to the first network" and "a controller adapted to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data units exceeds the threshold value". In the same field of endeavor, Chiu et al. teach a method and networks of voice gateways (22) for bandwidth management during implementation of Quality of Service using Internet Protocol provisioning including a storage module (54 memory buffer) (See Fig. 2, Col 5, lines 53-55) to store a threshold value (global and local thresholds) for a communications session, the threshold value representing an acceptable rate of incoming data units from the external network to the first network (maximum incoming packet rate), and a controller (51) adapted to deny further entry of data units from the external network to the first network in the communications session in

response to the controller detecting that the rate of incoming data units exceeds the threshold value (See Fig. 2, Col. 5, lines 32-58).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Chiu et al. in Savoldi et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of a memory buffer to store a global and local thresholds for a communications session, representing an acceptable maximum incoming packet rate and a controller to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data units exceeds the acceptable maximum incoming packet rate.

The motivation to do so would have been to store a global and local thresholds to a memory buffer for a communications session, representing an acceptable maximum incoming packet rate and a controller to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data unitsexceeds the acceptable maximum incoming packet rate, as suggested by Chiu et al. in Fig. 2, Col. 5, lines 32- 58.

Savoldi et al. and Chiu et al. teach substantially all the claimed invention but did not disclose expressly the particular application involving limitations of "the identifier is of codec type". In the same field of endeavor, Schuster et al. teach a method for a real-time packet voice data network that it is common for the real-time packet to include header (identifier) containing the specific voice codec type (such as G.729, G.731) for real time voice application (See Col. 2, lines 36-52).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Schuster et al. in Savoldi et al. and Chiu et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of including the header with the specific voice codec type in real-time packet.

The motivation to do so would have been to include the header with the specific voice codec type in real-time packet for real time voice application, as suggested by Schuster et al. in Col. 2, lines 36-52.

6. Claims 5-13, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5, 727,146 ("Savoldi et al.") in view of US patent 6,744,767 ("Chiu et al.") and US patent 6,771,674 B1 ("Schuster et al.") and further in view of US patent 6,944,673 B2 ("Malan et al.").

Regarding Claim 5, Savoldi et al. and Chiu et al. and Schuster et al. teach substantially all the claimed invention but did not disclose expressly the particular application involving limitations of "profiling scheme by protocol filter and security action of generating a report that an attack is occurring".

In the same field of endeavor, Malan et al. teach a method for networks profiling relating to common denial of service attack tracking technique including steps of examining multiple layers of the protocol stack and including the data and blocking at any layer or depth if violation happened (See Col. 2, lines 5-16) and generating a report that an attack is occurring (See Fig. 7, Col. 10, lines 6-35).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Malan et al. in Savoldi et al. and Chiu et al. and Schuster et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of a common denial of service attack tracking technique including steps of examining multiple layers of the protocol stack and including the data and blocking at any layer or depth if violation happened and generating a report that an attack is occurring.

The motivation to do so would have been to use a common denial of service attack tracking technique including steps of examining multiple layers of the protocol stack and including the data and blocking at any layer or depth if violation happened and generating a report that an attack is occurring, as suggested by Malan et al. in Col. 2, lines 5-16 and Col. 10, lines 6-35.

Regarding Claim 7-13, 19 and 25, Chiu et al. teach a method and networks of voice gateways (22) for bandwidth management during implementation of Quality of Service using Internet Protocol by a controller (51) adapted to deny further entry of data units from the external network to the first network in the communications session in response to the controller detecting that the rate of incoming data units exceeds the threshold value (See Fig. 2, Col. 5, lines 32-58).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Chiu et al. in Savoldi et al. and Schuster et al. and Malan et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of measuring the

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predetermined bandwidth requirement by detecting that the rate of incoming data units exceeds the threshold value.

The motivation to do so would have been to measure measuring the predetermined bandwidth requirement detecting that the rate of incoming data units exceeds the threshold value, as suggested by Chiu et al. in Col. 5, lines 32-58.

Regarding Claim 6, as discussed above, Savoldi et al. and Schuster et al. and Malan et al. teach substantially all the claimed invention but did not disclose expressly the particular application involving limitations of "check if the incoming data unit contains a Real-Time Protocol or Real-Time Control Protocol payload, and to deny further entry of the incoming data unit if the incoming data unit does not contain a Real-Time Protocol or Real-Time Control Protocol payload".

Chiu et al. further teach that checking for VoIP packet with User Datagram Protocol and Real Time Protocol (See Col. 9, lines 48-55).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Chiu et al. with Savoldi et al. and Malan et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of checking for VoIP packet with User Datagram Protocol and RTP.

The motivation to do so would have been to check for VoIP packet with User Datagram Protocol and Real Time Protocol, as suggested by Chiu et al. in Col. 9, lines 48-55.

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7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 5,727,146 ("Savoldi et al.") in view of US patent 6,771,674 B1 ("Schuster et al." and US patent 6,744,767 ("Chiu et al.") and US patent 6,944,673 B2 ("Malan et al.") and further in view of US patent 6,928,082 B2 ("Liu et al.").

Regarding claim 2, Liu et al. teach a network access method wherein it is a fundamental network address translation scheme by matching the source address with one or more entries of a network address translation mapping table server (26) (See Col. 8, lines 2-13).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Liu et al. with Savoldi et al. and Schuster et al. and Chiu et al. and Malan et al. in order to obtain a method of dynamically protecting network access using packet source address and to take advantage of matching the source address with one or more entries of a network address translation mapping table server as a fundamental network address translation scheme.

The motivation to do so would have been to match the source address with one or more entries of a network address translation mapping table server as a fundamental network address translation scheme, as suggested by Liu et al. in Col. 8, lines 2-13.

Regarding claim 3, Liu et al. further teach that matching the source address comprises matching an Internet Protocol (IP) address (See Col. 5, lines 64-67).

At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Liu et al. with Savoldi et al. and Schuster et al. and Chiu et al. and Malan et al. in order to obtain a method of dynamically

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protecting network access using packet source address and to take advantage of matching an Internet Protocol address as source address.

The motivation to do so would have been to match an Internet Protocol address as source address as a fundamental network address translation scheme, as suggested by Liu et al. in Col. 5, lines 64-67.

Conclusion

8. **THIS ACTION THIS ACTION IS MADE FINAL.** See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

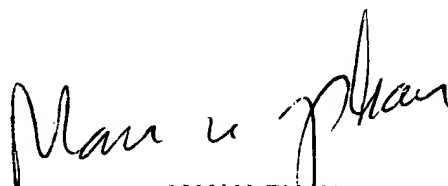
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

Oct. 25, 2007


MAN U. PHAN
PRIMARY EXAMINER